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vantages that flow rom free competition. *Vide, United States* v. *Freight Association*, 166 U. S. 290-346; *United States* v. *Addystone Pipe Co.*, 175 U. S. 1, and *People* v. *Sheldon*, 139 N. Y. 251. As a result such associations are rare, and trusts numerous. The soundness of the rule of law is now in process of an economical test.

CONTRIBUTORY NEGLIGENCE—RECKLESS AND WILLFUL MISCONDUCT.—ILLINOIS CENT. R. CO. v. BROWN, 28 Sou. Rep. (Miss.) 949.—Passenger riding on top of a car having no brakes applied, upon a down grade switch track, was injured by its colliding with a moving train upon the main track. *Held*, contributory negligence of plaintiff does not bar a recovery where defendant has been guilty of gross, willful, or reckless misconduct.

This decision is in strict conformity with the decisions in *Mettlestadt* v. *Ninth Ave. R. R. Co.*, 32 How. Pr. Super. Ct. 482, and *Clairborne* v. *K. & T. Ry. Co.*, 57 S. W. Rep. 336. For cases with opposite ruling, see *Chicago, etc. R. R. Co.* v. *Rielly*, 40 Ill. App. 416, and *Florida Southern R. R. Co.* v. *Hurst*, 30 Fla. 39.

ERROR TO STATE COURT—RIGHT TO RAISE CONSTITUTIONAL QUESTION.—TYLER V. JUDGES OF THE COURT OF REGISTRATION, 21 Supreme Ct. 206.—The Torrens Act of Massachusetts provided a land court of final jurisdiction. One Gould disputed the boundary of Tyler's land and brought the question before the land court for settlement. Tyler petitioned Massachusetts Supreme Court for writ of prohibition restraining land court from proceeding, and alleged unconstitutionality of Torrens Act. *Held*, Tyler had not sufficient interest in the litigation to draw in question the constitutionality of the act. Fuller, C. J., Harlan, Brewer and Shiras, JJ., dissenting.

The Massachusetts Court did not question Tyler's competency to be heard and determined the Federal question presented. This raises an interesting point whether the Supreme Court can decline to exercise its jurisdiction when all requisite elements are present, because of any supposed error on part of State court in entertaining the suit. The proper rule would seem to be that of *Wheeling and B. Bridge Co.* v. *Wheeling Bridge Co.*, 138 U. S. 287, and *Luxton* v. *North River Bridge Co.*, 147 U. S. 337, that the decision of the highest court of a State as to the finality of proceedings before it, is to be accepted in exercising appellate jurisdiction. Against the opinion that the Massachusetts court erred in entertaining the suit, see *Weston* v. *Charleston*, 2 Pet. 449, where, on a similar state of facts, Chief Justice Marshall held a writ of error to be properly issued and reviewed the Federal question presented.

ERROR TO STATE COURT—IMPAIRING OBLIGATION OF CONTRACT—EXEMPTING FROM TAXATION.—STEARNS V. MINNESOTA EX REL. MARR, 21 Supreme Ct. 73.—Lands lying in Minnesota were granted to that State by Congress for public purposes. In 1865 the State Legislature granted said lands to companies to aid in construction of railroads, agreeing upon payment of three per cent on gross earnings of said companies, to exempt all their property from other taxation. In 1895 said lands were taxed and the three per cent tax also continued. *Held*, that the legislation of 1895 impaired the obligation of a contract.

This case differs from other cases that railroad aid legislation has produced in holding that a Legislature when acting for the State as trustee of public lands, has the freedom of judgment of a trustee; is not limited by the constitutional provisions regarding taxation, and may make an irrevocable contract